

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 391 - HB 1221

March 17, 2013

SUMMARY OF BILL: Establishes the date of creation as the date that a life estate is deemed to exist for purposes of establishing eligibility for medical assistance.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact - According to the Bureau of TennCare, \$15,314,545 was collected in estate recoveries for long-term care in 2012. The number of TennCare enrollees who would utilize an unrecorded transfer to avoid estate collections cannot be quantified with certainty. Lost estate recoveries will be experienced as foregone revenue that would have reimbursed the state and federal government long-term care expenditures.

Assumptions:

- Tenn. Code Ann. § 71-5-116 authorizes the Bureau of TennCare to recover long-term care medical assistance correctly paid on behalf of a recipient from the recipient's estate after the recipient dies under specified circumstances.
- The Attorney General has opined that documentation of a transfer of land must be registered in the county where the land is located to be valid against strangers and creditors including the Bureau of TennCare. *Op. Tenn. Att'y Gen. 04-161* (November 10, 2004). TennCare is able to include invalidly transferred real property within the estate of the decedent for purposes of engaging in estate recovery under Tenn. Code Ann. § 71-5-116.
- According to the Bureau of the TennCare, if the date that a life estate is deemed to exist is the date the life estate is created instead of the date the life estate is registered the potential for reduced estate collections increases.
- According to the Bureau of TennCare, \$15,314,545 was collected in estate recoveries for long-term care in 2012.
- The number of TennCare enrollees that would utilize an unrecorded transfer to avoid estate collections cannot be quantified with certainty. Lost estate recoveries will be experienced as foregone revenue that would have been used by the state and federal government to recover long-term care expenditures.
- According to the Department of Human Services (DHS), the bill will affect DHS's administration of TennCare eligibility determinations including the appropriateness of imposing a transfer penalty on a transfer of assets occurring within 60 months of the

application for long-term care benefits. According to DHS, the increase in state expenditures related to administrative changes will be not significant and can be accommodated within DHS's existing resources without an increased appropriation or reduced reversion.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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